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Hearing Date: 4/7/11 at 11:00 a.m.
Objection Deadline: 3/23/2011 at noon

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re:

SAINT VINCENTS CATHOLIC MEDICAL
CENTERS OF NEW YORK, et al.,

Debtor.

Chapter 11

Case No. 10-11963 (CGM)
Jointly Administered

-----X

**RESERVATION OF RIGHTS OF THE CITY OF NEW YORK WITH RESPECT
TO DEBTORS' MOTION FOR AN ORDER APPROVING THE AMENDED
CONTRACT FOR THE SALE OF THE MANHATTAN CAMPUS AND APPROVING
SUCH SALE TO RSV, LLC AND NORTH SHORE-LONG ISLAND JEWISH HEALTH
CARE SYSTEM FREE AND CLEAR OF, INTER ALIA, THE FIRST LIENS
OF THE CITY OF NEW YORK AND ITS AGENCIES**

TO: THE HONORABLE CECILIA G. MORRIS
UNITED STATES BANKRUPTCY JUDGE

The City of New York and Its Agencies, including but not limited to, the New York City Department of Finance ("DOF"), the New York City Water Board (the "Water Board"), the New York City Environmental Control Board ("ECB") and the New York City Department of Transportation ("DOT") (collectively, herein, the "City"), by their counsel, MICHAEL A. CARDOZO, Corporation Counsel of the City of New York, hereby submit this Reservation of Rights with respect to Debtors' Motion for an Order (I) Approving the Entry Into the Amended and Restated Contract of Sale for the Real Estate and Personal Property

Comprising the Debtors' Manhattan Campus to RSV, LLC and North Shore-Long Island Jewish Health Care System; (II) Approving such Sale Free and Clear of Liens, Claims, Encumbrances and Other Interests; (III) Directing Occupants Under Terminated Leases to Vacate the Property; and (IV) Granting Related Relief Pursuant to Sections 105 and 363 of the Bankruptcy Code (hereinafter, the "Sale Motion"). In support thereof, the City states as follows:

Both the Sale Motion and the proposed Sale Order suggest that that the Debtors intend to pay certain first liens to the City at the closing of the Sale (the "Closing"), while reserving their rights to "contest the validity and allowance of the City's claims" (see fn. 7). The Sale Motion states as follows at page 24, ¶ 50 thereof: "By this Motion the Debtors seek authority to pay certain "sale costs" at the closing to satisfy governmental and/or municipal liens and taxes which may have statutory superpriority."

Accordingly, the City is hereby reserving its rights only to the extent the City's statutory first liens for (i) unpaid pre and post-petition real estate taxes and related charges and (ii) unpaid water and sewer charges, both pursuant to New York City Administrative Code § 11-301, are not satisfied at Closing; and (iii) the Debtors intend to later seek an exemption from stamp or similar taxes under 11 U.S.C. § 1146(a) even though such exemption is neither needed nor warranted in light of the fact that the Debtors are tax exempt entities and the Sale Motion was filed under 11 U.S.C. § 363(b), not pursuant to a plan that has already been confirmed.

(i) Unpaid pre and post-Petition real estate taxes

The Debtors' Sale Motion describes the Property to be sold as: "certain lots, pieces or parcels of land located at: 1 Seventh Avenue, 133 West 11th Street, 143 West 11th Street, 148 West 12th Street, 158 West 12th Street, 170 West 12th Street (collectively referred to as the "East Campus"); (ii) 76 Greenwich Avenue (the "Triangle Site"), and (iii) 20 Seventh

Avenue (the “O’Toole Building”) and related, land, building, improvements and personal property as more fully described in the Amended Contract.” See Sale Motion at p.8, ¶ 10. According to Schedule A to the Amended and Restated Contract of Sale (the “Amended Contract of Sale”), the Property to be sold consists of three Manhattan blocks and lots (“BBL”) on the NYC tax map: BBL 617/55, BBL 617/1 and BBL 607/1.

As of March 22, 2010, the following amounts were due to DOF with respect to real estate taxes and related charges under Admin. Code § 11-301 for these BBLs:

BBL -- 617/55	\$660,383.17 (O’Toole Building);
BBL 617/1 -	\$431.85 (Triangle Site);
BBL 607/1 -	\$2,699.72 (East Campus).

While DOF filed a pre-petition proof of claim for \$194,041.20 on May 17, 2010, on which statutory interest continues to accrue, additional taxes and related charges and violations have accrued post-petition. Payment of the City’s administration claims in the ordinary course of business is not only proper but in fact mandated by the applicable Bankruptcy Code provisions. See 28 U.S.C. § 959(b), which requires debtors in possession to manage and operate their property “according to the requirements of the valid laws of the State in which such property is situated” and 28 U.S.C. § 959(b), which requires that a tax under subsection (a) (which includes a local tax) “be paid on or before the due date of the tax under applicable non-bankruptcy law”.

DOF is entitled to the payment of its administrative expenses claim for unpaid real estate taxes under 11 U.S.C. § 503(b). As a governmental unit, DOF is not required to file a “request” for the payment of an administrative expense. See 11 U.S.C. § 503(b)(D). DOF’s unpaid post-Petition real estate taxes constitute a first lien and secured administrative expense claim under Admin. Code § 11-301 and 11 U.S.C. § 503(b)(1)(B)(i).

Statutory interest will continue to accrue with respect to all of these taxes and charges until paid in full. Considering the high, compounded, interest rate applicable to these taxes and charges, it would benefit the Debtors' estates and their creditors to have these taxes satisfied at Closing. The City respectfully requests that specific language be inserted in the proposed Sale Order authorizing and directing the Debtors to pay all real estate taxes and related charges to DOF at the Closing. (Copies of printouts from the DOF website reflecting these amounts are annexed collectively as **Exhibit A** hereto.)

(ii) Unpaid water and sewer charges

On or about June 4, 2010, the Water Board objected to the Debtors' sale motion with respect to the sale of 555 5th Avenue unless the outstanding water board liens were paid at closing. That motion was resolved and the amounts due the Water Board were paid at closing. Similarly, the Debtors provided for the payment of the Water Board liens at the closing of the sale of the Bishop Mugavero assets. The Debtors should similarly pay all amounts due the Water Board at the Closing of the Sale of the Property.

Public Authorities Law § 1045(j) 5 provides that, if not paid when due, all fees, rates, rents or other water and sewer charges "shall constitute a lien upon the premises served and a charge against the owners thereof, which lien and charge shall bear interest at the same rate as would unpaid taxes of the city. Such lien shall take precedence over all other liens or encumbrances, except taxes, and may be foreclosed against the lot or building served in the same manner as a lien for such taxes." (Emphasis added). See also New York City Administrative Code § 11-301.

\$1,007,243.51 is currently due the Water Board with respect to the Debtors' account # 3001002473001, \$42,345.00 with respect to account # 7001002476001, \$6,534.89 with respect

to account # 7001002483001 and \$2,173.80 with respect to account # 3001002480001. While the Debtors have additional Water Board accounts, the other accounts do not have outstanding balances at this time. (Copies of printouts from the Water Board's website reflecting these amounts are annexed collectively as **Exhibit B** hereto).

(iii) 1146(a) Exemption from Stamp Taxes

While the proposed form of Sale Order does not seek an exemption from stamp or similar taxes under Section 1146(a) of the Bankruptcy Code, the Sale Motion at page 24, footnote 6 states as follows:

“The Debtors do not believe that any transfer tax is due and owing under applicable New York law. The Debtors also reserve the right to assert that any transfer tax would not be payable under these cases pursuant to section 1146(c) as the Sale Transaction may be implemented and consummated following a Chapter 11 Plan.”

The City disagrees with the Debtors that absent the Debtors' tax exempt status, a transfer tax or other stamp taxes would not be due with respect to the Sale of the Property considering that the Debtors are seeking approval of the Amended Contract and Sale of the Property pursuant to Section 363(b) of the Bankruptcy Code, not pursuant to a plan that has already been confirmed as required by Section 1146(a), as interpreted by the United States Supreme Court in Florida Dept. of Revenue v. Picadilly Cafeterias, Inc., 2008 U.S. Lexis 5025, 128 S. Ct. 2326, 171 L. Ed.2d 203 (2008). The City is hereby reserving its rights to oppose any application seeking an exemption from stamp taxes with respect to the Sale of the Manhattan Property under Section 1146(a).

(iv) Other Reservations of Rights

The City's ECB also reserves its rights with respect to any ECB judgments that might have been docketed pre-petition for fines issued with respect to the Property that is subject to the Sale Motion, which fines are non-dischargeable under 11 U.S.C. § 523(a)(7)(B); and the City's DOT is reserving its rights with respect to its revocable consents for the tunnel, fuel oil tank, cable conduits and other conduits, any proof of claim filed with respect thereto and its rights to seek a setoff with respect to the security deposits held for such consents. DOT respectfully requests clarification whether the Debtors intend to assume and/or assign the Revocable Consents or reject the same or part thereof in connection with the Sale of the Property.

Dated: New York, New York
March 23, 2011

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for the City of New York
and its Agencies
100 Church Street, Room 5-223
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By: /s/Gabriela P. Cacuci
Gabriela P. Cacuci (GC-4791)

CERTIFICATE OF SERVICE

I, Gabriela P. Cacuci, an attorney admitted to practice before the courts of the State of New York do hereby certify that on March 23, 2011, I served true copies of the foregoing Reservation of Rights of the City of New York dated March 23, 2011, by electronic and/or facsimile transmission on the parties listed below:

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Dated: New York, New York

March 23, 2011

/s/ Gabriela P. Cacuci
Gabriela P. Cacuci

EXHIBIT A

Property Tax | View Items








Profile

Name(s):	ST VINCENTS HOSPITAL	Mailing Address:	450 W 33RD ST NEW YORK, NY 10001-2603
Planned Payment Date:	03/22/2011	BBL:	1-00617-0055/0

To display additional details for the item, click  in the Details column. (A new window will open.)

Charges as of Tuesday, Mar 22, 2011 12:48 PM

☐ Check this box to select or deselect all items

Select	Account Type / BBL	Account ID	Period Begin	Details	Amount Due	Amount to Pay
1 <input type="checkbox"/>	Health-Inspection 1-00617-0055/0		02/26/2008		72.80 \$	0.00
2 <input type="checkbox"/>	Finance-Property Tax 1-00617-0055/0		01/01/2010		226,904.50 \$	0.00
3 <input type="checkbox"/>	Health-Inspection 1-00617-0055/0		04/01/2010		70.30 \$	0.00
4 <input type="checkbox"/>	Finance-Property Tax 1-00617-0055/0		07/01/2010		228,022.87 \$	0.00
5 <input type="checkbox"/>	Buildings-Elevator 1-00617-0055/0		04/23/2010		355.51 \$	0.00
6 <input type="checkbox"/>	Fire-Prevention Inspection 1-00617-0055/0		08/28/2010		1,263.43 \$	0.00
7 <input type="checkbox"/>	Finance-Property Tax 1-00617-0055/0		01/01/2011		203,693.76 \$	0.00
					Total Due	Amount to Pay
					\$660,383.17	\$ 0.00

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Profile

Name(s): SVP-CORPORATION REAL ESTATE SERVICE **Mailing Address:** 170 W 12TH ST MBP SUITE 1-J
NEW YORK, NY 10011

Planned Payment Date: 03/22/2011 **BBL:** 1-00617-0001/0



To display additional details for the item, click  in the Details column. (A new window will open.)

Charges as of Tuesday, Mar 22, 2011 12:48 PM

☐ Check this box to select or deselect all items

Select	Account Type / BBL	Account ID	Period Begin	Details	Amount Due	Amount to Pay
1 <input type="checkbox"/>	Health-Inspection 1-00617-0001/0		04/01/2010		60.89 \$	0.00
2 <input type="checkbox"/>	Health-Inspection 1-00617-0001/0		10/08/2010		63.34 \$	0.00
3 <input type="checkbox"/>	Health-Extermination 1-00617-0001/0		11/03/2010		69.45 \$	0.00
4 <input type="checkbox"/>	Health-Extermination 1-00617-0001/0		11/29/2010		68.05 \$	0.00
5 <input type="checkbox"/>	Health-Extermination 1-00617-0001/0		01/11/2011		102.07 \$	0.00
6 <input type="checkbox"/>	Health-Extermination 1-00617-0001/0		02/14/2011		68.05 \$	0.00
					Total Due	Amount to Pay
					\$431.85	\$ 0.00

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Profile

Name(s):	ST VINCENTS CATHOLIC MEDICAL	Mailing Address:	170 W 12TH ST SUITE 1 NEW YORK, NY 10011-8202
Planned Payment Date:	03/22/2011	BBL:	1-00607-0001/0

To display additional details for the item, click  in the Details column. (A new window will open.)

Charges as of Tuesday, Mar 22, 2011 12:50 PM

☐ Check this box to select or deselect all items

Select	Account Type / BBL	Account ID	Period Begin	Details	Amount Due	Amount to Pay
1 <input type="checkbox"/>	Buildings-Elevator 1-00607-0001/0		06/20/2007		72.72 \$	0.00
2 <input type="checkbox"/>	Buildings-Elevator 1-00607-0001/0		03/01/2010		69.54 \$	0.00
3 <input type="checkbox"/>	Buildings-Illuminated Signs 1-00607-0001/0	40001	07/01/2010		48.14 \$	0.00
4 <input type="checkbox"/>	Buildings-Illuminated Signs 1-00607-0001/0	40002	07/01/2010		48.14 \$	0.00
5 <input type="checkbox"/>	Buildings-Illuminated Signs 1-00607-0001/0	40003	07/01/2010		48.14 \$	0.00
6 <input type="checkbox"/>	Buildings-Illuminated Signs 1-00607-0001/0	40004	07/01/2010		48.14 \$	0.00
7 <input type="checkbox"/>	Buildings-Illuminated Signs 1-00607-0001/0	40005	07/01/2010		48.14 \$	0.00
8 <input type="checkbox"/>	Buildings-Elevator 1-00607-0001/0		04/28/2010		951.76 \$	0.00
9 <input type="checkbox"/>	Buildings-Elevator 1-00607-0001/0		01/21/2011		1,000.00 \$	0.00
10 <input type="checkbox"/>	Fire-Prevention Inspection 1-00607-0001/0		02/28/2011		140.00 \$	0.00
11 <input type="checkbox"/>	Buildings-Illuminated Signs 1-00607-0001/0	40001	07/01/2011		45.00 \$	0.00
12 <input type="checkbox"/>	Buildings-Illuminated Signs 1-00607-0001/0	40002	07/01/2011		45.00 \$	0.00
13 <input type="checkbox"/>	Buildings-Illuminated Signs 1-00607-0001/0	40003	07/01/2011		45.00 \$	0.00
14 <input type="checkbox"/>	Buildings-Illuminated Signs 1-00607-0001/0	40004	07/01/2011		45.00 \$	0.00
15 <input type="checkbox"/>	Buildings-Illuminated Signs 1-00607-0001/0	40005	07/01/2011		45.00 \$	0.00

Total Due	Amount to Pay
\$2,699.72	\$ 0.00

EXHIBIT B

Water & Sewer Charges | Account Details

AccountProfile		
Name:	ST VINCENTS HOSP/F.M DEPT	Account Number: 3001002473001
Address:	1 7 AV NEW YORK, NY 10011-0000	Status: ACTIVE
Borough:	Manhattan	

Water and Sewer Charges as of Tuesday, Mar 22, 2011 01:10 PM		
	Description	Balance
1	Late Payment Charge	21,276.14
2	Utility	985,967.37
Total:		\$1,007,243.51

Charges and amounts displayed above might not reflect payments made in the past few days.

Print

Water & Sewer Charges | View Items

Profile

Name: ST VINCENT'S HOSPITAL **Account Number:** 7001002476001
Address: 1 7TH AV **Status:** ACTIVE
 NEW YORK, NY 10011-0000
Borough: Manhattan

To display additional details for the item, click  in the Details Column. (A new window will open.)

Please select the items you wish to pay and then CONTINUE.

Outstanding Water Charges as of Tuesday, Mar 22, 2011 01:11 PM

Select	Account Number	Details	Amount Due	Amount to Pay
<input type="checkbox"/>	7001002476001		42,345.00 \$	0.00
				Total Due
				\$42,345.00 \$ 0.00

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Name: ST VINCENT'S HOSPITAL **Account Number:** 7001002483001
Address: 20 7 AV
NEW YORK, NY 10030-0000 **Status:** ACTIVE
Borough: Manhattan

To display additional details for the item, click  in the Details Column. (A new window will open.)

Please select the items you wish to pay and then CONTINUE.

Outstanding Water Charges as of Tuesday, Mar 22, 2011 01:03 PM

Select	Account Number	Details	Amount Due	Amount to Pay
<input type="checkbox"/>	7001002483001		6,534.89 \$	0.00
			Total Due	
			\$6,534.89 \$	0.00

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Name: ST VINCENT,S HOSPITAL & M **Account Number:** 3001002480001
Address: 20 SEVENTH AV **Status:** ACTIVE
 NEW YORK, NY 10011-0000
Borough: Manhattan

To display additional details for the item, click  in the Details Column.(A new window will open.)

Please select the items you wish to pay and then CONTINUE.

Outstanding Water Charges as of Tuesday, Mar 22, 2011 01:02 PM

Select	Account Number	Details	Amount Due	Amount to Pay
<input type="checkbox"/>	3001002480001		2,173.80 \$	0.00
				Total Due
				\$2,173.80 \$ 0.00

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